



DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE-2021-BT-STD-0027]

RIN 1904-AD34

Energy Conservation Program: Energy Conservation Standards for Commercial Water Heating Equipment; Reopening of Comment Period

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking; reopening of public comment period.

SUMMARY: On May 19, 2022, the U.S. Department of Energy (DOE or the Department) published in the *Federal Register* a notice of proposed rulemaking and announcement of public meeting regarding energy conservation standards for commercial water heaters. DOE received three requests to extend the public comment period by 60 days. DOE has reviewed and denied these requests. But, considering the particular circumstances of DOE's denial of these petitions, the Department is reopening the public comment period to allow comments to be submitted until August 1, 2022.

DATES: The comment period for the notice of proposed rulemaking published in the *Federal Register* on May 19, 2022 (87 FR 30610) is reopened until August 1, 2022. Written comments, data, and information are requested and will be accepted on and before August 1, 2022.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov*. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2021-BT-STD-0027, by any of the following methods:

(1) *Federal eRulemaking Portal: www.regulations.gov*. Follow the instructions for submitting comments.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

(3) *Email:* to *CommWater Heaters2021STD0027@ee.doe.gov*. Include docket number EERE-2021-BT-STD-0027 in the subject line of the message.

No telefacsimilies (“faxes”) will be accepted.

Docket: The docket for this activity, which includes *Federal Register* notices, comments, and other supporting documents/materials, is available for review at *www.regulations.gov*. All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web pages can be found at: *www.regulations.gov/docket/ EERE-2021-BT-STD-0027*. The docket web page contains instructions on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT:

Ms. Julia Hegarty, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (240) 597-6737. Email: *ApplianceStandardsQuestions@ee.doe.gov*.

Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 586-2555. Email: *Matthew.Ring@hq.doe.gov*.

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov*.

SUPPLEMENTARY INFORMATION:

On May 19, 2022, DOE published in the *Federal Register* a notice of proposed rulemaking (“NOPR”) and announcement of public meeting regarding energy conservation standards for commercial water heaters. DOE stated it would accept written comments, data, and information on the proposal by July 18, 2022. 87 FR 30610.

On June 17, 2022, DOE received a joint comment from the American Public Gas Association (“APGA”), American Gas Association (“AGA”), Plumbing-Heating-Cooling Contractors – National Association (“PHCC”), Air-Conditioning, Heating, & Refrigeration Institute (“AHRI”), Spire Inc., Spire Missouri Inc., and Spire Alabama Inc. (collectively, the “Joint Commenters”), requesting a 60-day extension of the public comment period to allow more time to review the NOPR, the preliminary Technical

Support Document (“TSD”), and the supportive material.¹ On July 8, 2022, DOE also received a comment from Atmos Energy requesting a 60-day extension to allow for the collection and analysis of data from their service territories.² Finally on July 11, 2022, DOE also received a comment from Bradford White Corporation requesting a 60-day extension of the public comment period as DOE has produced a substantial number of rulemakings in the past few months, and additional time is needed to meaningfully respond to these actions.³

In response, DOE notes its continued belief that a 60-day comment period is sufficient for most proposed rules.⁴ Generally, DOE will consider extending comment periods for good cause when the proposed rule is unusually complex or presents novel issues.⁵ Absent a showing of good cause, DOE will adhere to its default 60-day comment period. As DOE has explained, it is the Department’s view that 60-days comment periods adequately balance the need for efficient rulemaking to meet statutory rulemaking deadlines with the public’s interest in meaningfully participating in those rulemakings. In this case, DOE has reviewed these requests and determined that none of the petitioners have shown good cause to extend the 60-day comment period. However, given the timing of this notice, DOE is nevertheless reopening the comment period until August 1, 2022.

Signing Authority

¹ See <https://www.regulations.gov/comment/EERE-2021-BT-STD-0027-0007>.

² See <https://www.regulations.gov/comment/EERE-2021-BT-STD-0027-0011>.

³ See <https://www.regulations.gov/comment/EERE-2021-BT-STD-0027-0012>.

⁴ See Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment, 86 FR 35668, 35674 (proposed July 7, 2021).

⁵ *Id.* (“DOE may extend the comment period, as appropriate and on a case-by-case basis, commensurate with the nature and complexity of the energy conservation standard at issue.”)

This document of the Department of Energy was signed on July 15, 2022, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, D.C., on July 15, 2022.

Treena V. Garrett
Federal Register Liaison Officer,
U.S. Department of Energy

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